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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 UNITED STATES OF AMERICA,
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11 Plaintiff,

Case No. CR06-106-RSM

12 v.

13 ELEAZAR BASILIO,
14 Defendant.

**PROPOSED FINDINGS OF FACT
AND DETERMINATION AS TO
ALLEGED VIOLATIONS OF
SUPERVISED RELEASE**

15 **INTRODUCTION**

16 I conducted a hearing on alleged violations of supervised release in this case on December
17 21, 2011. The defendant appeared pursuant to a warrant issued in this case. The United States
18 was represented by Jill Otake, and defendant was represented by Terry Kellog. Also present was
19 U.S. Probation Officer Sara K. Moore. The proceedings were digitally recorded.

20 **SENTENCE AND PRIOR ACTION**

21 Defendant was sentenced on May 4, 2007, by the Honorable Ricardo S. Martinez for Bank
22 Fraud. He received 235 days of detention and 5 years of supervised release.

23 Mr. Basilio completed his term of detention on May 4, 2007, and his period of supervised
release commenced. On October 15, 2010, a violation report was submitted to the Court for Mr.
Basilio's failure to report to the probation office and his failure to pay restitution. On November

1 12, 2010, the Court sentenced Mr. Basilio to credit for time served. He was continued on
2 supervision under the same conditions of supervised release to include up to 120 days of location
3 monitoring. On November 29, 2010, Mr. Basilio's location monitoring commenced.

4 On January 24, 2011, a violation report was submitted to the Court for Mr. Basilio's failure
5 to comply with the location monitoring program. Mr. Basilio returned late to his residence while
6 on discretionary leave. No action was recommended.

7 On February 8, 2011, a violation report was submitted to the Court for Mr. Basilio's use of
8 alcohol. No action was recommended. Mr. Basilio was referred to Sound Mental Health for a
9 substance abuse evaluation and the frequency of drug testing was increased.

10 On March 11, 2011, a violation report and request for warrant was submitted to the Court
11 for Mr. Basilio's use of methamphetamine on or about February 23, 2011. On March 28, 2011,
12 Mr. Basilio's supervised release was revoked and he was sentenced to three months in custody
13 followed by 36 months of supervised release. In addition to the original conditions of supervised
14 release, Mr. Basilio was further ordered to reside in and satisfactorily participate in a residential
15 reentry center ("RRC") for 120 days.

16 On May 18, 2011, Mr. Basilio's second term of supervised release commenced. Mr. Basilio
17 reported to the RRC as directed. However on July 18, 2011, Mr. Basilio was terminated from
18 the RRC for smoking. At the time of his termination, Mr. Basilio had completed two months and
19 three days of his 120 day sanction. On July 28, 2011, a report was submitted to the Court
20 requesting Mr. Basilio's conditions of supervision be modified requiring him to serve the
21 remaining 57 days on home confinement with the curfew component.

22 PRESENTLY ALLEGED VIOLATIONS

23 In a petition dated October 15, 2010, U.S. Probation Officer Sara K. Moore alleged that

1 defendant violated the following conditions of supervised release:

- 2 1. Failing to report to the probation office as directed on September 28 and October 15,
3 2010, in violation of standard condition 2.
- 4 2. Failing to make payments toward restitution as set forth by the probation officer, in
5 violation of special condition 7.

6 **FINDINGS FOLLOWING EVIDENTIARY HEARING**

7 Defendant admitted the above violations, waived any hearing as to whether they occurred,
8 and was informed the matter would be set for a disposition hearing on January 13, 2012, at
9 11:00 a.m. before District Judge Ricardo S. Martinez.

10 **RECOMMENDED FINDINGS AND CONCLUSIONS**

11 Based upon the foregoing, I recommend the court find that defendant has violated the
12 conditions of his supervised release as alleged above, and conduct a disposition hearing.

13 DATED this 21st day of December, 2011.

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16 BRIAN A. TSUCHIDA
17 United States Magistrate Judge
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